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APPLICATION NO. FILING DATE		FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/891,663	06/27/2001	Todd A. Hall	7883.0005-04	5780
22852	7590 09/30/2002			
FINNEGA	N, HENDERSON, FA	EXAMINER		
DUNNER LI 1300 I STRE	ET, NW	DAVIS, DANIEL J		
WASHINGT	ON, DC 20006		ART UNIT	PAPER NUMBER
			3731	
		•	DATE MAILED: 09/30/2002	!

Please find below and/or attached an Office communication concerning this application or proceeding.

. ,		Application No.	Applicant(s)
Office Action Summary		09/891,663	HALL ET AL.
		Examiner	Art Unit
		D Jacob Davis	3731
Period fe	The MAILING DATE of this communication app or Reply	pears on the cover sheet with the o	correspondence address
- Exte after If the If NC - Failu	MAILING DATE OF THIS COMMUNICATION. Insions of time may be available under the provisions of 37 CFR 1.13 SIX (6) MONTHS from the mailing date of this communication. In period for reply specified above is less than thirty (30) days, a reply operiod for reply is specified above, the maximum statutory period we use to reply within the set or extended period for reply will, by statute, reply received by the Office later than three months after the mailing ed patent term adjustment. See 37 CFR 1.704(b).	36(a). In no event, however, may a reply be tir within the statutory minimum of thirty (30) day will apply and will expire SIX (6) MONTHS from	nely filed s will be considered timely. the mailing date of this communication.
Status	oo patent term aujustinent. See 37 CFR 1.704(b).		
1)[Responsive to communication(s) filed on 12 D	<u> Pecember 2001</u> .	
2a)	This action is FINAL . 2b)⊠ Thi	s action is non-final.	
3) [Since this application is in condition for allowa closed in accordance with the practice under E on of Claims	nce except for formal matters, pr Ex parte Quayle, 1935 C.D. 11, 4	osecution as to the merits is 53 O.G. 213.
4)🖂	Claim(s) 69-108 is/are pending in the application	on.	
	4a) Of the above claim(s) is/are withdraw	n from consideration.	
5)	Claim(s) is/are allowed.		
6)	Claim(s) is/are rejected.		
7)	Claim(s) is/are objected to.		
8)⊠ Applicatio	Claim(s) <u>69108</u> are subject to restriction and/or on Papers	election requirement.	
9) 🔲 7	The specification is objected to by the Examiner.		
10)□ T	The drawing(s) filed on is/are: a) ☐ accept	ed or b) objected to by the Exan	niner.
	Applicant may not request that any objection to the		
11)□ T		is: a) ☐ approved b) ☐ disapprov	• •
	If approved, corrected drawings are required in reply		•
12)∐ T	he oath or declaration is objected to by the Exam	miner.	
Priority u	nder 35 U.S.C. §§ 119 and 120		
13) 🗌 🗸	Acknowledgment is made of a claim for foreign p	priority under 35 U.S.C. § 119(a)	-(d) or (f).
a)[] All b) ☐ Some * c) ☐ None of:		
•	1. Certified copies of the priority documents	have been received.	
2	2. Certified copies of the priority documents in	have been received in Applicatio	n No
	3. Copies of the certified copies of the priority application from the International Bure the attached detailed Office action for a list of	y documents have been received au (PCT Rule 17.2(a)).	in this National Stage
	cknowledgment is made of a claim for domestic	·	
a)	☐ The translation of the foreign language provi	sional application has been rece	ived.
Attachment(
2) Notice 3) Informa	of References Cited (PTO-892) of Draftsperson's Patent Drawing Review (PTO-948) ation Disclosure Statement(s) (PTO-1449) Paper No(s)	5) Notice of Informal Pa	PTO-413) Paper No(s) tent Application (PTO-152)
S. Patent and Trac PTO-326 (Rev.		on Summary	Part of Paper No. 5

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Election/Restrictions

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- Claims 69-81, drawn to a delivery catheter, classified in class 606, subclass 191.
- II. Claims 82-93, drawn to a method of turning a distal end of a catheter, classified in class 128, subclass 898.
- III. Claims 94-108, drawn to a method for delivering a medical device, classified in class 623, subclass 1.11.

The inventions are distinct, each from the other because of the following reasons:

Inventions Group I and Group II,III are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product (MPEP § 806.05(h)). In the instant case the apparatus may be used in a materially different process, such as dissecting tissue.

Inventions Group II and Group III are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (MPEP § 806.04, MPEP § 808.01). In the instant case the different inventions have different modes of operation. Group II actuates an anchoring member, while Group III does not.

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Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species, even though this requirement is traversed.

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

Please elect one catheter and a mating guidewire:

<u>SPECIES</u>	<u>FIGURES</u>		
Catheters:			
1-1	9-11		
1-2	12		
1-3	13A-13B		
1-4	14A-14B		
1-5	15A-15B		
1-6	15C-D		
1-7	16		

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1-8 20-21

1-9 22-23

Guidwires:

2 4	11	42D	4 4 D	4 E D	450
2-1	I J.	ISD.	14B,	IDB.	าอบ

2-2 12

2-4 17

2-5 18A-18B

2-6 19A-C

2-7 24

A telephone call was made to Suzanne Jones on September 24, 2002 to request an oral election to the above restriction requirement, but did not result in an election being made.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to D Jacob Davis whose telephone number is (703) 305-1232. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Milano can be reached on (703) 308-2496. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-3590 for regular communications and (703) 305-3590 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0858.

DJD September 25, 2002

> DAVID O. REIP PRIMARY EXAMINER